

REMARKS

The present amendment is submitted herewith to amend the specification. These proposed changes are merely editorial in nature.

In an Examiner Amendment introduced with the Office Action dated October 6, 2009, the specification was amended to include information regarding the status of the present application as being “a 371 of PCT/JP03/08563 07/04/2003”. The present application is indeed the national stage (i.e., under 35 USC § 371) of international application PCT/JP03/08563, which was filed on July 4, 2003. However, the addition of this designation in the first paragraph of the specification is inappropriate, particularly when this type of information is (in appropriate circumstances) required when claiming benefit of priority to an earlier-filed application. A national stage application, however, does not claim priority of an earlier-filed application, as its filing date is the filing date of the international application.

MPEP 1893.03(c)(III) explains (with added emphasis):

[A] national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the international filing date of the international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a). Accordingly, it is not necessary for the applicant to amend the first sentence(s) of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage.

For clarity, Applicants respectfully request that the introductory paragraph resulting from the Examiner Amendment of October 6, 2009 be deleted. The proposed change does not add new matter nor do they raise any new issues. Accordingly, entry thereof is requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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